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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/788,641 | 02/27/2004 | Steven F. Burson | 01-7118 | 7212 |

32681 7590 07/14/2005

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| EXAMINER | |
|-----------------|--------------|
| FAULK, DEVONA E | |
| ART UNIT | PAPER NUMBER |
| 2644 | |

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/788,641

Applicant(s)

BURSON ET AL.

Examiner

Devona E. Faulk

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2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 3/2/2005 have been fully considered but they are not persuasive. The applicant essentially asserts regarding the amended language to claims 1 and 11, that prior art Nassimi fails to disclose that the antenna is integrated within the thickness of the tube. The examiner disagrees. Thickness is defined as the dimension through an object as opposed to its length or width. Nassimi discloses that the antenna can be within the microphone tube. The examiner asserts that within the tube reads on an antenna integrated within the thickness of the voice tube and thus the prior art meets the amended claim language.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1-3,5,6,10,11,13,14 and 18** are rejected under 35 U.S.C. 102(e) as being anticipated by Nassimi (U.S. Patent Application 2004/0204155).

Regarding **claim 1**, Nassimi discloses a wireless headset (Figure 1) comprising;
a microphone (page 3, paragraph 0036);

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a voice tube defining a lumen therein extending between an open end of the voice tube and the microphone for acoustic transmission between the open end of the voice tube and the microphone (18; Figure 1; page 3, paragraph 0036), the voice tube having a thickness defined between an interior and an exterior surface thereof (inherent; thickness is defined as the dimension through an object as opposed to its length or width) ;

an antenna at least partially integrated within the thickness of the voice tube (page 3, paragraph 0037; Nassimi teaches that the antenna is within the tube and within reads on within the thickness);

a transmitter in communication with the antenna for transmitting signals from the microphone via the antenna (paragraph 0028).

All elements of **claim 2** are comprehended by the rejection of claim 1 (2; Figure 1, paragraph 0036).

All elements of **claim 3** are comprehended by the rejection of claim 2 (12; Figure 1; paragraph 0036).

All elements of **claim 5** are comprehended by the rejection of claim 1 (An antenna is a metallic apparatus for sending or receiving electromagnetic waves so it is inherent that the antenna is formed of a metallic material).

All elements of **claim 6** are comprehended by the rejection of claim 5.

All elements of **claim 10** are comprehended by the rejection of claim 1 (paragraph 0037).

Regarding **claim 11**, Nassimi discloses a voice tube (18, Figure 1; page 3, paragraph 0036), comprising :

a tubular member having an open end and an opposing end, the opposing end being configured to be coupled to a microphone (paragraph 0036), the tubular member having a thickness defined between an interior and an exterior surface thereof (inherent; thickness is defined as the dimension through an object as opposed to its length or width) ;

a lumen (inherent; Lumen is defined as the inner open space or cavity of a tubular organ) defined by the tubular member extending between the open end and the opposing end for acoustic transmission between the open end and the microphone (Figure 1);

and an antenna at least partially integrated within the thickness of the tubular member, the antenna being configured to be coupled to at least one of a transmitter and a receiver for wirelessly transmitting and receiving signals via the antenna, respectively (paragraphs 0028 and 0037; inherent, Nassimi teaches that the antenna is within the tube and within reads on within the thickness). Lumen is defined as the inner open space or cavity of a tubular organ.

All elements of **claim 13** are comprehended by the rejection of claim 11 (An antenna is a metallic apparatus for sending or receiving electromagnetic waves so it is inherent that the antenna is formed of a metallic material).

All elements of **claim 14** are comprehended by the rejection of claim 13.

All elements of **claim 18** are comprehended by the rejection of claim 11 (paragraph 0037).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 4,8,12 and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Nassimi (U.S. Patent Application 2004/0204155) in view of Scott et al. (U.S Patent 4,917,504) .

Claims 4 and 12 claim headset of claim 1 and the voice tube of claim 11 respectively, wherein the voice tube is one of flexible and rigid (claim 4) and wherein the tubular member is one of flexible and rigid. As stated above apropos of claims 1 and 11, Nassimi meets all elements of that claim. Therefore, Nassimi meets all elements of claims 4 and 12 with the exception of the claimed matter. Scott discloses a headset where the voice tube or tubular member is one of flexible and rigid (16,16a, 16b; Figure 1; column 3, lines 10-25). Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to use Scott's concept of a voice tube or tubular member being flexible and rigid in order to enable bending or flexing of the tube.

Claims 8 and 16 claim the headset of claim 1 and the voice tube of claim 11 respectively, wherein the voice tube includes a tubular member formed of a nonmetallic material and the antenna is a metallic material embedded (at least partially) within the

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thickness of voice tube (claim 8) and wherein the tubular member is formed of a nonmetallic material the antenna is a metallic material embedded within the tubular member (claim 16). As stated above apropos of claims 1 and 11, Nassimi meets all elements of that claim. Therefore, Nassimi meets all elements of claims 5 and 13 with the exception of the claimed matter. Nassimi discloses an antenna internal to a voice tube (paragraph 00 0037). An antenna is a metallic apparatus for sending or receiving electromagnetic waves so it is inherent that the antenna is formed of a metallic material. It is obvious that any antenna would have to be formed of some metallic material. Scott discloses a plastic voice tube (column 3, lines 15-20). Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to use Scott's concept of a nonmetallic tubular member in order to enable flexibility.

6. **Claims 7 and 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Nassimi (U.S. Patent Application 2004/0204155) in view of Pallai (U.S. Patent Application 2001/0036291) .

Claims 7 and 15 claim the headset of claim 5 and the voice tube of claim 11, wherein the voice tube includes a shrink tubing over the metallic tubular member (claim 7) and further comprising a shrink tubing over the tubular member (claim 15). As stated above apropos of claims 1 and 11, Nassimi meets all elements of that claim. Therefore, Nassimi meets all elements of claims 7 and 15 with the exception of the claimed matter. Pallai discloses a voice conveying guide tube for headsets comprising shrink tubing over a tubular member (paragraphs 0034; Figure 7). Thus it would have been obvious

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to one of ordinary skill in the art at the time of the invention to use Pallai's concept of shrink tubing in order to better coat or cover the tubular member.

7. **Claims 9 and 17** and are rejected under 35 U.S.C. 103(a) as being unpatentable over Nassimi (U.S. Patent Application 2004/0204155) in view of Scott et al. (U.S. Patent 4,917,504) in further view of Pallai (U.S. Patent Application 2001/0036291) .

Claims 9 and 17 claims the headset of claim 8 and the voice tube of claim 16, wherein the antenna is metallic wire at least partially embedded within the thickness of in the voice tube, the metallic wire being one of spiral wound and extending generally straight along at least a portion of the length of the voice tube (claim 8) and wherein the antenna is a metallic wire disposed in the tubular member, the metallic wire being one of spiral wound and extending generally straight along at least a portion of a length of the tubular member. As stated above apropos of claims 8 and 16, the combination of Nassimi and Scott meets all elements of that claim. Therefore, the combination meets all elements of claims 9 and 17 with the exception of the metallic wire being one of spiral wound. Nassimi teaches of an antenna integrated in a voice tube (paragraph 0037) . Pallai discloses a voice tube comprising a metal coil spring (paragraph 0032). An antenna is a metallic apparatus for sending or receiving electromagnetic waves so it is inherent that the antenna is formed of a metallic material. Thus it would have been obvious to one of ordinary skill in the art at the time of the invention to use Pallai's concept of a spiral wound metallic wire in order to maintain a desired position.

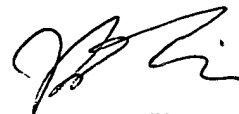
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devona E. Faulk whose telephone number is 571-272-7515. The examiner can normally be reached on 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. On July 15, 2005, the central fax number will change to 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DEF



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